

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

OSCAR SOTO RODRIGUEZ

Debtor

CASE NO. 18-05210 ESL

CHAPTER 13

MOTION REQUESTING DISMISSAL OF CASE

TO THE HONORABLE COURT:

COMES NOW, creditor DESIRAY DIAZ MALDONADO through the undersigned counsel whom respectfully STATES and PRAYS as follows:

1. The instant case was filed on September 9<sup>th</sup>, 2018. The debtor has two domestic support obligations (DSO) with the creditor and an obligation to pay -as part of his DSO obligation- the mortgage of the residence where the creditor and the minors reside as per State Court Order. (See Exhibit 1, State Court Resolution and Order).
2. The debtor has failed his vital part of the bankruptcy process to keep his post-petition DSO payments current. To-date the debtor owes \$7,803.00 in pre and post-petition payments which represents one (1) month at \$1,784.00 (See Exhibit 2, ASUME CERTIFICATE). Also, the debtor owes pre and post-petition mortgage payments as informed by secured creditor Select Portfolio Servicing Inc. in their Motion Requesting Relief from the Automatic Stay filed under docket entry no. 26.
3. The debtor's actions in not keeping his DSO monthly payments pursuant to the State Court order calls into question the integrity or validity to maintain good faith in his bankruptcy case.
4. Section 1307 (c) (11) of the Bankruptcy Code provides cause for dismissal for "failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition".

5. Due to debtor's failure to comply with his domestic support obligation payments towards his minors' child and the mortgage of the residence of the creditor and the minor as order by the State Court in the civil case ECU2015-0400, creditor requests an Order of Dismissal in the instant case.
6. The Debtor is not an active member of the United States Armed Forces. (See Exhibit 3, Status Report)

**WHEREFORE**, the creditor DESIRAY DIAZ MALDONADO, requests from the Court considers the herein motion and grants an Order of Dismissal along with any other order it deems just or proper.

**30 DAYS NOTICE:** Pursuant to General Order No. 05-09, the Debtor(s), his/her/their counsel of record, and all those parties in interest who have filed a notice of appearance in this case, are hereby notified that unless a party in interest files an objection hereto within 30 days from the date of this notice, the case may be dismissed or converted without the need of further notice or hearing.

**NEGATIVE CERTIFICATION PURSUANT TO SECTION 201(B)(4) OF THE SERVICEMEN'S CIVIL RELIEF ACT OF 2003:** The creditor declares that according to the attached certification(s), provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is(are) not in active duty or under call to active duty as a member(s) of the ARMY, NAVY, or AIR FORCES of the United States of America; National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

**CERTIFICATE OF SERVICE:** I CERTIFY that on this same date the foregoing document has been electronically filed WITH THE Clerk of the Court using the CM/ECF system which sends notified of such filing to all system's participants, including the U.S. Trustee's Office and the Trustee. A copy of this document has been mailed to the debtor by USPS certified mail to the following mailing address: PO BOX 1301 Gurabo, PR 00778 and his physical address: 52 Calle Eugenio Sánchez López, Apartamento #2, Gurabo PR 00778

**RESPECTFULLY SUBMITTED**

In Caguas, Puerto Rico, 8th day of October 2018

*/s/ Carlos A. Ruiz Rodríguez, Esq.*  
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Estado Libre Asociado de Puerto Rico  
TRIBUNAL DE PRIMERA INSTANCIA  
Centro Judicial de Caguas  
Sala Superior

DESIRAY DIAZ MALDONADO PARTE DEMANDANTE	CIVIL NUM. ECU2015-0400
VS.	SALA: 503
OSCAR SOTO RODRIGUEZ PARTE DEMANDADA	SOBRE: CUSTODIA

**RESOLUCIÓN y ORDEN**

A tenor con el Informe que antecede, suscrito por la Lcda. Rosani Rodríguez Marrero, este Honorable Tribunal imparte su aprobación y dictamina de conformidad con el mismo.

Se impone al Sr. Oscar Soto Rodríguez la obligación de proveer una pensión alimentaria provisional de \$2,409.00 mensuales, de esta cantidad el Sr. Oscar Soto Rodríguez retendrá la cantidad de \$625.00 mensuales (porción de la vivienda de los menores); por ser el alimentante el que realiza el pago directamente a la institución bancaria.

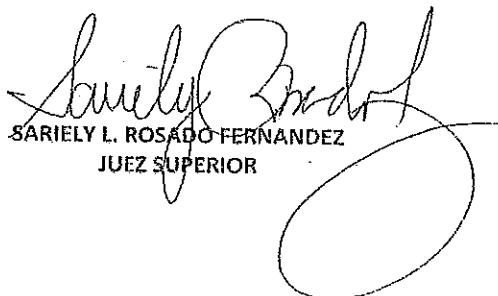
La diferencia de \$1,784.00 mensuales la depositará en la Administración para el Sustento de Menores (ASUME), efectivo al 1ro. de noviembre de 2016. A esta fecha el Sr. Soto debe haber cubierto lo adeudado en la institución educativa por concepto de mensualidades.

La pensión alimentaria es para beneficio de (10 años) y, / (7 años); de apellidos Soto Diaz.

Se señala vista de fijación final de pensión alimentaria para el 8 de diciembre de 2016, 10:00 a.m., piso 6, Sala 03.

NOTIFÍQUESE.

En Caguas, Puerto Rico a \_\_\_\_\_ de \_\_\_\_\_ de 2016.

  
SARIELY L. ROSADO-FERNANDEZ  
JUEZ SUPERIOR



GOBIERNO DE PUERTO RICO  
Departamento de la Familia  
Administración para el Sustento de Menores

Fecha de Emisión: 10/8/2018

Issue date:

**CERTIFICACION**

**CERTIFICATE**

Nuestro sistema mecanizado contiene la siguiente información:

*Our automated case management system has the following information:*

DESIRAY DIAZ MALDONADO no tiene la obligación de pagar pensión alimentaria a través de ASUME.

*DESIRAY DIAZ MALDONADO does not have obligation to pay child support through the ASUME.*

Caso Case	Pensión Fijada <i>Support Established</i>	Frecuencia de Pago <i>Payment Frequency</i>	Fecha Último Pago <i>Last Payment Date</i>	Balance adeudado <i>Arrears Due</i>	Plan de Pagos <i>Payment plan</i>	Fecha en que se estableció Plan de Pagos <i>Payment Plan establishment date</i>	Fecha último pago registrado del Plan de Pagos <i>Date of last payment for payment plan</i>	Asistencia Económica (TANF) <i>Assistance for Needy Families Program (TANF)</i>
0562273	\$2,409.00	MENSUAL	10/2/2018	\$7,803.00				

DESIRAY DIAZ MALDONADO NO se encuentra acogido/a a la Ley de Quiebras.

*DESIRAY DIAZ MALDONADO IS NOT under the protection of the Bankruptcy Act.*

Tiene 0 obligación(es) de pagos de pension(es) alimentaria(s) a través de ASUME.

Has 0 child support obligation(s) through the ASUME

Recibe pensión alimentaria a través de ASUME en 1 caso(s):

*Receives child support through ASUME in 1 case(s):*

**0562273**

Este documento resume la información contenida en el sistema mecanizado (PRACSES) de la Administración para el Sustento de Menores. Los pagos realizados directamente a la persona custodia no se registran como pagos de pensión alimentaria ni plan de pago. Deberá acudir a la oficina de la ASUME donde está asignado su caso para solicitar la acreditación de pagos efectuados fuera de ASUME. El balance de esta Certificación no incluye el mes en que fue expedida. La información de este documento es válida por treinta (30) días, a partir de la fecha de su emisión.

*This document summarizes the information contained in the Administration for Child Support Enforcement automated system (PRACSES). Payments made directly to the Custodial Person are neither registered as child support payments nor as payments made for the payment plan. You must visit the ASUME office to which your case is assigned in order to request to credit those payments. The balance in this Certificate does not include the current month when it was issued. The information contained in this document is valid for thirty (30) days from its issue date.*

**2018100420181103166818**

**NOTA DE CONFIDENCIALIDAD:** La información contenida en este documento y cualquier anexo del mismo es confidencial y privilegiada y tiene el propósito de que sólo sea utilizado por la persona identificada en el mismo.

**CONFIDENTIALITY NOTE:** The information contained in this document and any attachment is confidential and privileged and has the purpose of being used only by the person identified in it.

Para validar la información contenida en este certificado, favor acceder a <http://www.pr.gov/validacionelectronica/>.

To validate the information herein, please access <http://www.pr.gov/validacionelectronica/>.



**Status Report  
Pursuant to Servicemembers Civil Relief Act**

**(Exhibit III)**

SSN: XXX-XX-6629  
Birth Date: Feb-XX-1971  
Last Name: SOTO  
First Name: OSCAR  
Middle Name:  
Status As Of: Oct-08-2018  
Certificate ID: GC1YGG643F8X9S6

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA

This response reflects the individuals' active duty status based on the Active Duty Status Date

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA

This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA

This response reflects whether the individual or his/her unit has received early notification to report for active duty

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director  
Department of Defense - Manpower Data Center  
400 Gigling Rd.  
Seaside, CA 93955

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.